

REMARKS

Claims 1-24 are pending. By this Amendment, no claims are cancelled, claims 1, 9 and 17 are amended and no new claims are added.

35 U.S.C. § 101

The Examiner has again rejected claims 17-24 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. In the amendment filed on September 19, 2007, Applicant amended claim 17 to recite "A computer program stored on a computer-readable medium" in response to Examiner's rejection and suggestion. Applicant assumes that the repetition of the rejection is an oversight on the Examiner's part and respectfully requests that the Examiner withdraw the rejection.

Claim Rejections – 35 U.S.C. §103

By this amendment Applicant has amended independent claims 1, 9 and 17 to recite that the "computerized" image analysis produces "a non-image diagnostic result" to further emphasize the distinction between the claimed invention and the prior art cited by the Examiner. The Examiner indicated that "Any form of image manipulation is considered to be image analysis, since the image is changed or analyzed." Applicant respectfully disagrees. While the applicant acknowledges that it is common for the terms "image processing" and "image analysis" to be used imprecisely, one of skill in the art knows that when properly used the term "image processing" refers to performing an operation on a digitized image that results in another image. "Image analysis," to the contrary, refers to computerized analysis operations that lead to a non-image result. Here the prior art of record does not disclose or suggest any act of image analysis as defined above. Please also note that as recited in the claims the image analysis is performed on the source image and at the first location. This is unlike Taubman where, as the

Examiner states "the input device is use to allow the user to click on the image and further request for additional detailing of the image is sent to the server." In the present invention, as claimed, no additional detail of the source image is sent to the second location. The source image remains at the first location where is undergoes computer image analysis. A non-image result of the computerized image analysis occurs at the first location and may be returned to the second location as recited in some of the dependent claims. Applicant further notes that computerized image analysis excludes human analysis such as that performed by a pathologist. Thus, while applicant believes that the claims submitted in the prior amendment are patentable, Applicant has amended the claims to further emphasize the differences between the presently claimed invention and the prior art of record. Claims 1, 9 and 17 as amended are now allowable. Claims 2-8 depend from claim 1 and are patentable for at least the same reasons. Claims 10-16 depend from claim 9 and are patentable for at least the same reasons as claim 9. Claims 18-24 depend from claim 17 and are patentable for at least the same reasons as claim 17. Applicant respectfully requests that the Examiner withdraw the rejection.

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul C. Onderick", with a stylized, flowing script.

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